

AMENDED IN ASSEMBLY JULY 14, 2003

AMENDED IN SENATE JUNE 2, 2003

AMENDED IN SENATE MAY 1, 2003

AMENDED IN SENATE APRIL 7, 2003

SENATE BILL

No. 1004

Introduced by Senators Soto and Romero

(Coauthor: Senator Machado)

(Coauthors: Assembly Members Calderon and Firebaugh)

February 21, 2003

An act to add Chapter 8.5 (commencing with Section 13610) to Division 7 of the Water Code, relating to perchlorate.

LEGISLATIVE COUNSEL'S DIGEST

SB 1004, as amended, Soto. Perchlorate.

Existing law, the Porter-Cologne Water Quality Control Act, with certain exceptions, requires a person who causes or permits any oil or petroleum product to be discharged in any waters of the state, or where it may be so discharged, to immediately notify the Office of Emergency Services. The act makes any person who fails to provide the notice guilty of a misdemeanor that is punishable by a fine of at least \$500, and not more than \$5,000, for each day of failure to notify.

The act requires each California regional water quality control board, every 3 months, to publish and distribute to all public water system operators within the region a list of discharges of MTBE that occurred during the prior 3-month period and a list of locations where MTBE was detected in the groundwater within the region.

This bill, with certain exceptions, would require a person who causes or permits perchlorate to be discharged in any waters of the state, or where it may be so discharged *or deposited*, to immediately notify the State Water Resources Control Board. *The bill would require the state board, in consultation with the Department of Toxic Substances Control, to establish the amount of perchlorate that is required to be reported upon discharge.* The bill would make a person who fails to provide that notice liable for civil penalties of not less than \$500, or more than \$5,000, for each day of failure to notify. The bill would authorize a county district attorney, city attorney, public water agency, or the Attorney General to enforce this provision.

The bill, on or before January 1, 2005, would require an owner or operator of a storage facility that has stored in any calendar year since January 1, 1950, over 500 pounds of perchlorate to submit to the state board certain information relating to that storage. The bill would require the state board to publish, compile, keep centrally, and make available for public review certain information relating to the storage of perchlorate and the discharge of perchlorate. The bill would authorize the state board to ~~change~~ *charge* a fee to each owner of a storage facilities that provides certain information to the board. The fees would be required to be deposited in the State Water Quality Control Fund, to be available to the state board upon appropriation by the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 8.5 (commencing with Section 13610)
2 is added to Division 7 of the Water Code, to read:

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CHAPTER 8.5. PERCHLORATE

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6 13610. Unless the context otherwise requires, the definitions
7 set forth in this section govern the construction of this chapter:

8 (a) "Perchlorate" means all perchlorate-containing

9 compounds, including ammonium, potassium, magnesium, and

10 sodium perchlorate.

(b) Subject to Section 13610.5, “perchlorate storage facility” means a facility that stores over 500 pounds of perchlorate in any calendar year.

13610.5. This chapter does not apply to a facility that stores perchlorate for retail purposes or for law enforcement purposes.

13611. (a) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits perchlorate to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the state board. *The state board, in consultation with the Department of Toxic Substances Control, shall establish the amount of perchlorate, the discharge or deposit of which must be reported pursuant to this section.*

(b) The notification required by this section does not apply to a discharge in compliance with this division.

(c) Any person who fails to provide the notice required by subdivision (a) and Section 13611.5 is liable for civil penalties of not less than five hundred dollars (\$500), or more than five thousand dollars (\$5,000), for each day of failure to notify.

(d) A county district attorney, city attorney, public water agency, or the Attorney General may enforce this section.

(e) The court shall award to the Attorney General, a city attorney, district attorney, or public water agency that prevails in an action under this section all costs of investigating and prosecuting that action, including expert fees, and reasonable fees and costs.

(f) Notwithstanding Section 13441, all money collected by the state pursuant to this section shall be available to the state board or the Attorney General upon appropriation by the Legislature.

13611.5. On or before January 1, 2005, *unless the owner or operator has met the alternative compliance requirements of subdivision (e)*, an owner or operator of a storage facility that has stored in any calendar year since January 1, 1950, over 500 pounds of perchlorate shall submit to the state board, to the extent feasible, all of the following information:

(a) The volume of perchlorate stored each year.

1 (b) The method of storage.

2 (c) The location of storage.

3 (d) Copies of documents relating to any monitoring undertaken
4 for potential leaks into the water bodies of the state.

5 (e) *The owner or operator of a storage facility that has stored*
6 *in any calendar year since January 1, 1950, over 500 pounds of*
7 *perchlorate, is in compliance with this section if both of the*
8 *following conditions are met:*

9 (1) *The owner or operator has provided substantially similar*
10 *information as required pursuant to subdivisions (a), (b), (c), and*
11 *(d) to a state or federal agency pursuant to an order issued by a*
12 *regional water quality control board pursuant to Chapter 5*
13 *(commencing with Section 13300) of Division 7, an order, consent*
14 *order, or consent decree issued or entered into by the Department*
15 *of Toxic Substances Control pursuant to Chapter 6.8 (commencing*
16 *with Section 25300) of Division 20 of the Health and Safety Code,*
17 *or an order, consent order, or consent decree issued or entered into*
18 *by the United States Environmental Protection Agency pursuant to*
19 *the Comprehensive Environmental Response, Compensation, and*
20 *Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.) or*
21 *the Resource Conservation and Recovery Act of 1976, as amended*
22 *(42 U.S.C. Sec. 6901 et seq.).*

23 (2) *The owner or operator, on or before January 1, 2005,*
24 *notifies the state board of the governmental entity to which the*
25 *information is provided and the state board determines the*
26 *information supplied is substantially similar as the information*
27 *required to be reported pursuant to subdivisions (a), (b), (c), and*
28 *(d).*

29 13612. (a) The state board shall publish and make available
30 to the public on or before January 1, 2006, a list of past and present
31 perchlorate storage facilities within the state. The state board may
32 charge a fee to each owner of a storage facility that provides
33 information to the board for that purpose, which fee shall not
34 exceed fifty dollars (\$50). The fees shall be deposited in the State
35 Water Quality Control Fund and notwithstanding any other
36 provision of law shall be available to the state board upon
37 appropriation by the Legislature.

1 (b) The state board shall compile and keep centrally all
2 information obtained pursuant to Sections 13611 and 13611.5. The
3 information shall be available for public review.

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